

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Krista D. Bruce

Debtor(s). _____ /

Case No. 17-54073-pjs
Honorable Phillip J. Shefferly
Chapter 13

ORDER GRANTING DEBTOR'S MOTION FOR VIOLATION OF THE AUTOMATIC STAY AGAINST CREDITOR, FREEDOM MORTGAGE CORPORATION

On July 2, 2019, the Debtor filed a Motion for Violation of the Automatic Stay ("Motion") (ECF #70). The Motion alleges that a creditor, Freedom Mortgage Corporation ("Freedom"), refuses to turn over to the Debtor a check in the amount of \$12,918.11 representing insurance proceeds paid by State Farm Insurance to compensate the Debtor for water damage to her home. The Motion requests that the Court find that Freedom willfully violated the automatic stay, that the Court require Freedom to turn over the proceeds of the check to the Debtor, and award the Debtor additional actual damages, punitive damages and attorney fees.

The Debtor served the Motion on Freedom, but Freedom did not file a response within the time permitted by the applicable rules. The Court construes Freedom's failure to respond as demonstrating its agreement with the factual allegations and legal arguments set forth in the Motion. As a result, the Court will grant the Motion, but will not grant all of the relief requested in the Motion because the Court is not persuaded that the Motion provides adequate support for all of the requested relief. Accordingly,

IT IS HEREBY ORDERED that the Motion is granted to the extent set forth in this order;

IT IS FURTHER ORDERED that Freedom must immediately remit to the Debtor the State Farm Insurance proceeds in the amount of \$12,918.11;

IT IS FURTHER ORDERED that Freedom must immediately pay reasonable attorney fees of \$2000.00 to the Debtor's attorney;

IT IS FURTHER ORDERED that the Court denies without prejudice the Motion's request for \$5000.00 in actual damages and \$5,000.00 in punitive damages because the Motion does not identify what makes up the actual damages, and does not provide sufficient factual support or sufficient legal authority for punitive damages in the amount requested; and

IT IS FURTHER ORDERED that the Court retains jurisdiction to enforce this order and to impose additional remedies if Freedom does not immediately comply with this order.

Signed on July 31, 2019



/s/ Phillip J. Shefferly

Phillip J. Shefferly
United States Bankruptcy Judge